

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

August 17 of 2006



PE 06-06: FastColor, Inc.

CASE DESCRIPTION: request for approval of an exception from standards of the Subdivision Ordinance requiring installation of a 5-foot wide sidewalk in conjunction with the subdivision of property at 3514 East 29th Street

LOCATION: 3514 East 29th Street between Barak Lane and Greenfield Plaza, in southeastern Bryan, Brazos County, Texas

LEGAL DESCRIPTION: 0.344 acres of land out of Richard Carter League, No. A-8

EXISTING LAND USE: retail sales and service

ZONING: 'C-2' Retail District

STAFF CONTACT: Martin Zimmermann, Project Planner

SUMMARY RECOMMENDATION: Staff recommends **denying** the requested exception.



BACKGROUND:

The subject property is zoned 'C-2' Retail District and occupied by an older commercial structure. The property is currently occupied by a retail sales and service use and has never been represented on a subdivision plat. Building permits are not generally granted for new construction on tracts of land created solely by deed and which are not represented on a subdivision plat. The property owner is proposing to represent this property on a subdivision plat (GestHand Capital Addition), as shown on the draft preliminary plan accompanying this report.

Subdivision regulations require installation of a 5-foot wide sidewalk in front of this proposed subdivision along East 29th Street, a major arterial street. The applicant is requesting an exception from this requirement. The subject property currently has a 75-foot wide driveway connection to East 29th Street. In this particular case, subdivision regulations require the installation of approximately 25 feet of sidewalk adjacent to this existing driveway, to ensure an improved pedestrian walkway adjacent to the entire front property line of this proposed lot.

ANALYSIS:

The Planning and Zoning Commission may authorize exceptions from standards of the Subdivision Ordinance. The Planning and Zoning Commission may authorize such exceptions when, in its opinion, compliance would not be in the public interest. In granting an exception, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary or desirable in the public interest.

In making its findings, the Planning and Zoning Commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such exception upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.

No exception shall be granted unless the Planning and Zoning Commission finds:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the standards would deprive the applicant of the reasonable use of the land.

As properties are being developed or redeveloped, they should generally conform to current standards, so long as such standards do not deny reasonable use of property. In this particular case, staff believes that strict application of the requirement to install a sidewalk in front of this property does not deprive the applicant of the reasonable use of the land.

It is true that not all developments adjoining this segment of East 29th Street currently have sidewalks. However, the progressive purpose and intent of the Subdivision Ordinance is – over time – to provide sidewalks along most thoroughfares, including this segment of East 29th Street. As nearby properties will develop or redevelop, property owners will be required to install sidewalks in front of those properties. Staff believes that, in the long-term, continued application of the requirement to install sidewalks in conjunction with new developments and redevelopment will promote the general welfare of the entire community, by providing improved walkways adjacent to thoroughfares. All will benefit, if all comply.

2. That the exception is necessary for the preservation and enjoyment of the property.

Staff believes granting this exception is not necessary for the preservation and enjoyment of the property.

3. That the granting of the exception will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area

Staff contends that not requiring the installing of a sidewalk, in this particular case, would not be detrimental to public health, safety, or welfare at this time. However, staff believes that as properties develop and redevelop along this segment of East 29th Street and sidewalks are installed, it will improve safety for pedestrian traffic.

4. That the granting of the exception will not have the effect of preventing the orderly subdivision of adjoining land in the vicinity in accordance with the provisions of this Ordinance.

Granting an exception from the requirement to install a sidewalk in this particular case would leave little justification to deny such requests on similarly situated properties along this segment of East 29th Street. The long-term result will then be that no improved walkways are available along this major thoroughfare.

RECOMMENDATION:

Staff recommends **denying** the requested exception.